IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 19514 of 2007(W)

PETITIONER:

PRESIDENT,
THIRUVALLA EAST CO-OPERATIVE BANK LTD.,
ERAVIPEROOR P.O.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:

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1. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, PATHANAMTHITTA.

2. ASSISTANT REGISTRAR (GENERAL), CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.

3. C.K. MOHANAN NAIR, CHAVATHUVAYALIL HOUSE, CHENGANNOOR P.O.

BY SMT.A.G.ANEETHA,
SPECIAL GOVERNMENT PLEADER, (CO-OPERATION)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K.BASHEER, J.

W.P.(C)No.19514 OF 2007

Dated this the 27th day of June, 2007

JUDGMENT

Having heard learned counsel for the petitioner and learned Special Government Pleader for Co-operation and having perused the materials available on record, I am of the view that the contentions raised by the petitioner need not be dealt with elaborately at this stage.

2. Petitioner, who is the President of a Co-operative Society, impugns Ext.P6 notice issued by respondent no.1 under Section 32(1) of the Kerala Co-operative Societies Act, 1969. By the impugned notice, petitioner has been directed to show cause in writing as to why the managing committee of the Bank should not be superceded invoking power under Section 32 of the Act. Further, the managing committee has been given liberty to appear before respondent no.1 in person on June 30, 2007 at 11 a.m. and show cause and reason why the proposed action shall not be taken. It is stated by respondent no.1 in the said notice that he is prima facie satisfied that the continuance

of the present managing committee would be against the interest of the members and depositors of the bank. He has also indicated certain other reasons as to why he has come to such a conclusion. I do not propose to deal with those reasons either in view of the order that I propose to pass.

3. Petitioner contends that the proposed action is totally vitiated and illegal. Though an enquiry under Section 65 was conducted by the Department on the basis of an alleged complaint filed by a member belonging to a rival political party, the copy of the report has not been made available to the managing committee so far. No opportunity was also afforded to participate in the enquiry. Petitioner has also adverted to several other circumstances which according to him will expose the vulnerability of the order.

4. On the contrary, it is contended by learned Special Government Pleader that Ext.P6 will show that sufficient opportunity was given to the managing committee to respond to the findings entered by the officer in the enquiry. It is pointed out by the learned Special Government Pleader that the

committee had not bothered to give any reply to the show cause notice issued after receipt of the enquiry report.

5. I refrain from making any observation on the rival contentions raised by the parties, since in my view Ext.P6 is only a show cause notice. Petitioner has been given an opportunity to be heard as indicated in the notice itself. Petitioner has been given ten days time to give his reasons. Members of the committee have also been permitted to appear before respondent no.1 to explain their position.

6. In that view of the matter, I do not propose to allow the prayer made by the petitioner to quash Ext.P6 not at this stage. However, I hasten to add that I have not considered the merit of the contentions raised by the petitioner. It will be open to the petitioner to appear before respondent no.1 and raise his objections to Ext.P6 notice in writing, within ten days. Apart from that he will also be entitled to appear before respondent no.1 in person and show his reason. Similarly, members of the managing committee will also be at liberty to respond to Ext.P6 notice as indicated therein.

7. Respondent no.1 shall hear the petitioner and other members of the committee as indicated in Ext.P6 and take a decision in the matter in accordance with law. A copy of the order shall be served on the petitioner within seven days from the date of passing the same. If it goes against the petitioner, it shall not be implemented for two weeks from the date of service of a copy on the petitioner.

With the above directions, writ petition is disposed of.

A.K.BASHEER, JUDGE

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